REMARKS/ARGUMENTS

In response to the above-identified Final Office Action, claims 1-20 remain pending in the present application.

Applicant has presented arguments below that Applicant believes should render the claims allowable. In the event, however, that the Examiner is not persuaded by Applicant's arguments, Applicant respectfully requests that the Examiner enter the remarks to clarify issues upon appeal.

For the reasons set forth more fully below, Applicant respectfully submits that the present claims are allowable. Consequently, reconsideration, allowance and passage to issue of the present application are respectfully requested.

The Examiner maintained the rejection of claims 1-5, 8-9, 13, and 17-18 under 35 U.S.C. 102(e) as being anticipated by Allen et al. ("Allen") and of claims 6-7, 10-12, 14-16, and 19-20 under 35 U.S.C. 103(a) as being unpatentable over Allen in view of well-known prior art. Applicant respectfully disagrees with the rejections. In response to Applicant's previous remarks regarding these rejections, the Examiner states:

> **Applicant argues that Allen fails to teach, show, or suggest utilization of a plurality of designated control parameters, ... Applicant further argues that the claimed designated control parameters having tunable limits are not inherently taught. The Examiner maintains that Allen inherently teaches such tunable parameters. Allen discloses a media server (See Figure 2) having a plurality of control parameters, including scheduling parameters (See Figures 15 and 18). Allen further discloses that the server is a computer device such as a Silicon Graphics Challenge server (Col. 29, Lines 15-67). As is well known in the art, computers run software under an operating system, in this case Irix, a UNIX variant. It is inherent that an operating system, such as Irix, allow for a multitude of user-definable parameters that effect the operation and performance of the system. Some such parameters include cache/swap space sizing, memory allocation, network interface card speed and many other advanced kernel-level and device driver settings pertaining to storage parameters and uplink parameters. Providing a computer-based system with operator-adjustable settings does not constitute patentable advance in the art. Further, a database, such as the schedule database of Allen (Col. 31, Lines 37-43), which contains scheduling parameters (Col. 33, Lines 35-40), in inherently modifiable such that an operator may make changes to the data as necessary.**

Applicant respectfully disagrees with the Examiner's position.

The present invention provides a digital media distributor (DMD) with tunable control of digital media data transmission that includes a distribution network, a central site system, and a plurality of remote site systems. The central site system utilizes a plurality of designated control parameters, including uplink parameters, scheduler parameters, and storage parameters, for controlling distribution of digital media data. The plurality of remote site servers receive digital media data transmissions from the central site server via the distribution network according to the designated control parameters. In this manner, a plurality of control parameters are provided that allow tuning of distribution in a DMD according to particular transmission needs. The use of the control parameters enhances the flexibility of achieving optimal management of transmissions from a central site to remote sites. More particularly, data storage, scheduling, and uplink components are tuned through the control parameters.

In rejecting independent claims 1, 8, 17, and 18 of the present invention, the Examiner relies on the description of Figure 2 in Allen, including Allen's col. 15, line 15 for teaching a distribution network in the form of co-axial cable (shown as element 216), col. 16, line 3 for teaching a central site system in the form of a local media server 202, and col. 16, line 5 for teaching a plurality of remote site servers in the form of distribution network interface units 206. However, Applicant respectfully points out that claims 1 and 8 specifically recite that the data provided by the central site to the remote sites/servers is done via the distribution network. In contrast, there is nothing to teach, show, or suggest such use of the distribution network 216 by the cited elements in Allen.

As shown by Allen's Figure 2, the so-called 'remote sites' 206 couple to the local media server 202 via data and control connections 224, 226 that simply comprise the signal lines shown

in Figures 8 and 9. Applicant respectfully submits that these signal lines fail to teach or suggest a distribution network and that the distribution network 216 relied upon in the rejection can, in no way, be considered as the means by which the 'remote sites' of the distribution network interface units receive data from the 'central site server' of the local media server, since the network 216 is shown between a channel combiner 21 and subscribers 218. Accordingly, Applicant respectfully submits that the basis of the Examiner's position in the rejection regarding the recited elements of the central site server, remote sites, and provision of data by the central site to the remote sites/servers via a distribution network is fundamentally flawed, and thus the reliance on the cited art as presented fails to anticipate or suggest Applicant's recited invention.

Further, since there is nothing to teach or suggest a distribution network by which a central site server distributes data to remote sites/servers in Allen, Applicant respectfully submits that there is nothing to teach, show, or suggest utilizing a plurality of designated control parameters as tunable limits, including uplink parameters, scheduler parameters, and storage parameters, for tuning distribution of digital media data to the remote sites, as recited in varying form by the Applicant in independent claims 1 and 8. Accordingly, Applicant respectfully submits that independent claims 1 and 8 are allowable over the cited art, as well as their respective direct/indirect dependent claims 2-7 and 9-16, for at least the same reasons.

Further, independent claims 17 and 18 each recite a method for controlling digital advertisement distribution from a central site to a remote site via a media network that establishes values for one or more of a set of scheduler control parameters in the central site, for one or more of a set of uplink control parameters in the central site, and for one or more of a set of storage control parameters in the central site, where the managing of distribution of digital advertisements to the remote sites is based on the established values, and the established values

provide tunable limits. Applicant reiterates that Allen fails to teach or suggest distribution from a central site to a remote site via a media network.

Additionally, the Examiner contends that providing a computer-based system with operator-adjustable settings does not constitute patentable advance in the art and that a database, such as the schedule database of Allen, which contains scheduling parameters, is inherently modifiable. Applicant respectfully submits that the Examiner's broad view of computer-based system capabilities has over-simplified the basis for the reliance on inherency in the rejection. Of course computer systems are known to be modifiable by user input. The proliferation of available software offers proof of the myriad ways in which computer operations can be performed. However, this inherent ability to modify computer operations does not render all such modifications obvious.

Thus, Applicant does not merely provide a computer-based system with operator-adjustable settings but has recited specific aspects of a digital media distribution system that utilizes computer server capabilities to overcome deficiencies in the manner of distributing digital media. Included in these aspects is the provision and use of a plurality of parameters in a central site server that have tunable limits, including scheduler control parameters, uplink control parameters, and storage control parameters. Through these parameters, management of distribution of digital advertisements to remote sites of the system occurs. Applicant respectfully submits that there is nothing inherent in the establishing of these parameters. Further, given the deficiencies of Allen as presented hereinabove, and without further criticality of teaching, such reliance on inherency seems to lack sufficient basis. Therefore, Applicant respectfully submits that claims 17, and 18 are not anticipated by Allen nor unpatentable over Allen in view of well-known prior art.

Additionally, dependent claims 19-20 include the features of claim 17, while adding further features, and thus, these claims are also respectfully submitted as allowable over the cited art for at least those reasons stated hereinabove. With further regard to claim 19, the Examiner admits that Allen does not disclose establishing values for the uplink control parameters including an uplink request window, uplink forward, and uplink look-ahead. The Examiner then takes Official Notice that it is well known in the art of satellite transmissions to use such parameters to control the flow of data transfer between a ground station and a satellite. The Examiner further states that it would have been obvious to modify the system of Allen with the well-known prior art in order to be able to control the transmission of data over a satellite upstream. Applicant respectfully submits that no such combination is obvious.

Rather, the Examiner has established the basis of rejection by citing the distribution network interface cards of Allen as Applicant's remote sites and Allen's local media server as Applicant's central site between which digital advertisement distribution occurs. Based on the Examiner's position in the rejection of claim 19, it appears that the Examiner is suggesting that use of a satellite can somehow be done in Allen to distribute data from the 'central site' local media server to the 'remote site' distribution network interface cards in order to include the 'obvious' modification of Allen with well-known prior art to establish uplink parameters in order to be able to control the transmission of data over a satellite upstream. Clearly, the basis for such a combination wholly disregards the connection of the cited elements of the local media server to the network interface cards shown by Allen in Figure 2, which, in no way, teaches or suggests that a satellite could or would be used. Thus, Applicant respectfully submits that there is nothing to teach or suggest modifying the system of Allen with the well-known prior art in order to be

able to control the transmission of data over a satellite upstream in a way that renders claim 19 unpatentable.

In view of the foregoing, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. 102(e) and 103(a).
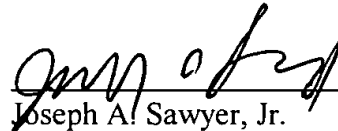
Applicant's attorney believes that this application is in condition for allowance. Should any unresolved issues remain, Examiner is invited to call Applicant's attorney at the telephone number indicated below.

Respectfully submitted,

SAWYER LAW GROUP LLP

July 7, 2004
Date

Joseph A. Sawyer, Jr.
Attorney for Applicant(s)
Reg. No. 30,801
(650) 493-4540